

REMARKS

Status of the Claims

Claims 1-25, 30-33, 36-40, and 51-55 are pending in the application. Claims 1-22, 25, 51, 52, 53, and 55 are currently amended. Reconsideration and allowance of all of the pending claims are respectfully requested.

New matter is not being introduced into the application by way of this amendment. The amendment to claims 1-22 and 25 deletes reference to hydrates of the claimed compounds. The amendments to claims 25, 51, 52, 53 and 55 are editorial and do not change the scope of the claims. Accordingly, no new matter is added.

This amendment is directly responsive to the Examiner's comments in the outstanding Office Action and places the Application in condition for allowance. Accordingly, entry of this amendment under the provisions of 37 C.F.R. §1.116 is fully warranted and respectfully requested.

Examiner Interview

Applicants would like to thank the Examiner for the interview conducted on February 6, 2007. Applicants acknowledge receipt of the Interview Summary dated February 15, 2007. Applicants acknowledge that the statement as to the substance of the interview set forth in the Examiner's Interview Summary" is correct. It is noted that Applicants have incorporated the Examiner's comments and suggestions made during the interview into the present reply.

Claim Rejections - 35 U.S.C. §112

The paragraph numbers below correspond with the paragraph numbers in the Office Action.

4. Claims 1-22 are rejected under 35 U.S.C. §112, first paragraph and second paragraph, over use of the term "hydrates thereof" in the claims. The term "hydrates thereof" is removed from the claims as currently amended. Accordingly, withdrawal of this rejection is respectfully requested.

5. Claims 51-53 are rejected under 35 U.S.C. §112, second paragraph, over use of the term "6-deoxy 11107" in the claims. Claims 51-53 (and 55) are currently amended to address this rejection. Accordingly, withdrawal is respectfully requested.

6. The rejection of claims 52 and 54-55 over the term "strain-A-1543 (FERM BP-8442)" is maintained for reasons of record. Applicants respectfully traverse this rejection for the following reasons. With regard to the requirements under 35 U.S.C. §112, the MPEP makes clear that:

A fundamental principle contained in 35 U.S.C. 112, second paragraph is that applicants are their own lexicographers. They can define in the claims what they regard as their invention essentially in whatever terms they choose so long as **>any special meaning assigned to a term is clearly set forth in the specification.

MPEP §2173.01. Furthermore:

The examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. 112, second paragraph, is whether the claim meets the threshold requirements of clarity and precision, not whether more suitable language or modes of expression are available. When the examiner is satisfied that patentable subject matter is disclosed, and it is apparent to the examiner that the claims are directed to such patentable subject matter, he or she should allow claims which define the patentable

subject matter with a reasonable degree of particularity and distinctness. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire.

MPEP §2173.02.

Applicants respectfully submit that the term "strain-A-1543 (FERM BP-8442)" is fully described and defined in the specification in Example 1, at page 144, line 17 to page 145, line 27. Accordingly, the meaning assigned to "strain-A-1543 (FERM BP-8442)," as recited in the present claims, is clearly set forth in the specification and the requirements of 35 U.S.C. §112 are met. Applicants respectfully submit that withdrawal of this rejection is required.

7. Claim 53 is rejected under 35 U.S.C. §112, second paragraph over the expression "biologically converting." Claim 53 is currently amended to address this rejection. Accordingly withdrawal of this rejection is respectfully requested.

8. Claim 51 is rejected under 35 U.S.C. §112, first paragraph. The Examiner asserts that the specification does not support recitation of the entire genus *Streptomyces*. Claim 51 is currently amended to recite the deposited strains. Accordingly, withdrawal of this rejection is respectfully requested.

9. The rejection of claims 51-55 under 35 U.S.C. §112, first paragraph. The Examiner asserts that meeting the International Deposit rules does not necessarily satisfy the requirements of U.S. practice. Accordingly, Applicants here enclose a **Declaration Regarding Deposit of Microorganisms** which verifies that the requirements of U.S. practice will be met by Applicants. Withdrawal of this rejection is therefore respectfully requested.

CONCLUSION

Applicants respectfully submit that all remaining issues in the case have been fully addressed by this amendment and that the application is now in condition of allowance. An early reconsideration and Notice of Allowance are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact J. Mark Konieczny (Reg. No. 47,715) at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: **MAR 15 2007**

Respectfully submitted,

By 

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Attachment: Microorganism Declaration